

EXHIBIT A

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*Attorneys for Adversary Proceeding
Defendant Jun Dam*

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF WASHINGTON**

In re:	Case No: 18-03197 FPC 7
GIGA WATT, INC., a Washington corporation,	The Honorable Frederick P. Corbit
Debtor.	Chapter 7

MARK D. WALDRON, as Chapter 7 Trustee,	Adversary Proceeding No. 21-80053
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Plaintiff,

v.

JUN DAM, a California resident, on behalf of himself and a purported class of similarly situated parties,

Defendant.

**DEFENDANT'S OPPOSITION TO
TRUSTEE'S MOTION FOR
INJUNCTIVE RELIEF**

REDACTED VERSION

1 According to these bank records, the Debtor received the Class Members' \$21
2 million. Trustee Ex. J at 2. Trustee Ex. C at 14; Blood Decl., Exs. 2-3.

3 Records, emails, and the timing of payments show that the Debtor received
4 the Class Members' escrowed money. Of the \$10.8 million that Perkins Coie
5 wired to GW Singapore, about \$9.4 million was transferred by GW Singapore to
6 GW Washington in the same time period that Perkins was releasing the money
7 from the Escrow. According to the records, GW Singapore sent its first wire to
8 GW Washington within 48 hours of Perkins' first payment to GW Washington,
9 and GW Singapore sent its last wire to GW Washington 24 hours after Perkins'
10 last payment to GW Singapore. *Id.* The most money ever maintained in the
11 Escrow was about \$22.3 million. Blood Decl., Ex. 4. Based on the Debtor's bank
12 records, this same amount was wired to GW Washington between August 9,
13 2017 and February 23, 2018. Blood Decl., Exs. 2-3.

14 Further, emails produced by the Trustee detail the requests to send the
15 Class Members' improperly released escrowed money directly to the Debtor. *See*
16 Blood Decl., Exs. 5-9.

17 **B. The Perkins Coie Lawsuits**

18 On December 16, 2020, proposed class representative Jun Dam, on behalf
19 of himself and all others who purchased Giga Watt Tokens, filed a class action
20 complaint in the Eastern District of Washington against five Perkins Coie-related
21 parties to recover the portion of their payments into the escrow that were
22 improperly released by Perkins (the "Class Action"). *See* Blood Decl., Ex. 10.
23 The Class Action seeks from Perkins the recovery of the Class Members' money
24 Perkins' improperly disbursed from escrow.

25 On September 17, 2020, just two months before he filed the adversary
26 proceeding against Perkins, the Trustee was deposed pursuant to FRBP 7004.
27 The Trustee testified the Class Members—not the Estate—were the ones
28 damaged by Perkins' conduct. As detailed in Exhibit 11, the Trustee has

1 repeatedly testified the Class, not the Estate has claims arising from Perkin's
 2 conduct. Blood Decl., Ex. 12 (Waldron Depo.) at 42:13 – 43:16 (“[Y]ou have
 3 these watt token holders. They clearly have a claim. If there was an escrow
 4 breach, they would have independent claims ... Giga Watt USA, the debtor, does
 5 not appear to have a straightforward claim here.”). The Trustee repeatedly noted
 6 the reasons the Estate lacks standing to assert the claims it only now says it owns
 7 and those it now seeks to enjoin. *Id.* at 48:2-3, 49:17 – 50:12, 54:21 – 56:12. The
 8 Trustee also testified he did not have knowledge that Perkins was a fiduciary to
 9 the Debtor. *Id.* at 51:10-15, 51:23 – 52:12. The Trustee did not know if the Estate
 10 was a third-party beneficiary to the escrow agreement, but testified that
 11 regardless, the Class Members (Token Holders) had claims “ahead” of the Estate.
 12 *Id.* at 57:7-24.

13 In his September 14, 2020, response to the motion to convert to Chapter 7,
 14 the Trustee emphasized again that the Class Members are the ones with a case,
 15 not the Estate. *Id.*, Ex. 13 (“It should be noted that if such viable claims exist, the
 16 watt token claimants likely hold independent causes of action, separate and apart
 17 from the bankruptcy estate. The bankruptcy estate’s claims, if any exist, are
 18 likely limited in scope and amount.”).

19 Nevertheless, on November 19, 2020, the Trustee filed a verified
 20 adversary complaint captioned *Waldron v. Perkins Coie LLP*, Adv. Proc. No. 20-
 21 80031 (ECF Nos. 1, 6) that contradicts the Trustee’s sworn testimony. Although
 22 the theory of the case is unclear and continues to shift as its theories are
 23 challenged, the Perkins Adversary Complaint alleged that Perkins, GW
 24 Singapore, and Andrey Kuzenny breached their fiduciary duties owed directly to
 25 the Debtor when the escrowed funds were improperly released and aided and
 26 abetted each other in the process. *See* Perkins Adversary Complaint, e.g., ¶¶ 31
 27 (“By disbursing money to GW Singapore in violation of the Escrow terms,
 28 Perkins substantially assisted GW Singapore’s breach of its fiduciary duty to

1 **VI. THE TRUSTEE'S CONDUCT HAS RESULTED IN**
 2 **UNAVOIDABLE CONFLICTS**

3 The Trustee is elevating one group of creditors above another for his own
 4 benefit. Through his litigation tactics the Trustee has created an irreconcilable
 5 conflict which must be addressed in the unlikely event this Motion is granted.

6 Respectfully submitted,

7 Dated: December 9, 2021

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